

# Notice of Allowability

Application No.

10/634,179

Examiner

Tuyen Q Tra

Applicant(s)

KOSCIELNIAK, WACLAW C.

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 02/13/2004.
2. ☒ The allowed claim(s) is/are 15-29 and 31-37.
3. ☐ The drawings filed on 08 May 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 0803
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 0504
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
Georgia Epps  
Supervisory Patent Examiner  
Technology Center 2800  
Notice of Allowability

### **DETAILED ACTION**

This Supplemental Action has been made for the application since the application claims 21-29 and 30-37 was not considered in the previous Office Action.

#### **Examiner's Amendment**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Mark C. Pickering on April 20, 2004 and May 24, 2004.
3. The application's claims have been amended as follows:
  - Claims 19 and 20, line 1, "the method of claim 15" has been amended as -- the crystal of claim 15-- (as in attachment on the following pages).
  - Claim 30 is canceled (as stated in attachment on the following attachment).
  - Claim 31 has been amended as stated in attachment on following pages.
  - Claims 35, 36 and 37, line 1, "claim 30" has been amended as -- claim 31--(as in attachment on the following pages).

#### **Reason For Allowance**

4. Claims 15-29 and 31-37 are allowed.
5. Following is an examiner's statement of reasons for allowance:

The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claim, in such a manner that a rejection under 35 U.S.C. 102 or

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103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims 15, 21 and 31, which includes photonic stack having plurality of layer of material that alternate between a first layer of material and a second layer of material, the first layer of material having a first dielectric constant and the second layer of material having a second layer of dielectric constant.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jasper, Jr. et al. (US Patent 5,739,796) discloses an ultra-wideband photonic band gap crystal having selectable and controllable band gaps and methods for achieving photonic band gaps in Figure 3 comprising of a plurality of rods (5) being disposed in the host material; however, Jasper, Jr. et al. does not teach or suggest that those rod having plurality of layer of material that alternate between a first layer of material and a second layer of material, the first layer of material having a first dielectric constant and the second layer of material having a second layer of dielectric constant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuyen Tra whose telephone number is (571) 272-2343. The examiner can normally be reached on Monday to Thursday from 8:30am to 6:00pm.

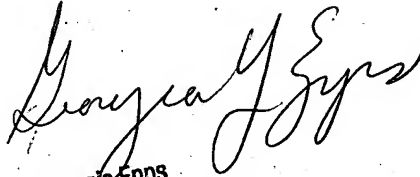
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps, can be reached on (571) 272 - 2328. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

tt

May 25, 2004

  
Georgia Epps  
Supervisory Patent Examiner  
Technology Center 2800